

## **REMARKS**

Applicant has reviewed the Examiner's Non-Final Office Action dated December 21, 2004.

Applicant amended claims 1, 8, 15, 22, 30, 35, 40, 44 and 45.

Claims 1-46 remain pending in the application.

The Examiner stated that the previous rejections of claims 1-46 under 103 (a) as obvious over Hodosh et al in view of Johnson et al had been withdrawn.

The Examiner rejected claims 1-46 under 35 U.S.C. 103 as being obvious over Hodosh et al (US Patent No. 6,116,045) in view of Johnson et al (US Patent No. 4,741,176) and (now) further in view of Basso (US Patent 4,517,815).

Applicant provides the following remarks with respect to the Examiner's pending rejection of the claims under 35 U.S.C. 103.

Applicant traverses the rejection of claims 1-46 as being obvious over Hodosh et al in view of Johnson et al and further in view of Basso. In summary, the Examiner stated that Hodosh et al disclose an insulated foam container comprising an interior volume (22) and an ice sheet pouch (80) (see Fig. 3 in Hodosh) into which ice cubes are inserted and that Johnson et al disclose an ice sheet with a plurality of spaced apart encapsulated ice cube holders. The Examiner stated that it would have been obvious to modify the ice pouch of Hodosh et al with the encapsulated spaces for ice cubes as taught by Johnson et al to provide a better means of cooling contact for a beverage or food source. The then examiner stated that Basso teaches a plurality of refrigerating tubes whereby walls are attached or bonded to an insert and it would have further been obvious to modify the disclosed invention Hodosh et al with attached tubular refrigerant sheets (of Basso) for providing more efficient cooling.

Applicant's claim 1 includes "an ice sheet including a plurality of encapsulated spaced apart refrigerant cubes attached to said outer shell along one or more interior walls of said container". The ice pouch of Hodosh et al is not attached to an outer shell along an interior wall. As Illustrated in Fig. 3 and further in Fig. 12b the ice pouch 80 and the

ice cubes 426 of Hodosh et al are free to move around and are not attached to the container or case 20. Similarly, the freezer pack insert 16 of Johnson et al is made is removable (its an “insert”) and is made up of elongated removable plastic pouch sections (column 2, line 11) which are not described as attached to the cooler 10. Further, the insert housings 22, 24 and 26 (or insert housings 222, 224 and 226 or 322, 324 and 326) of Basso are also removable (see column 5, lines 44-54) and have annular walls defining closed annular chambers (see column 3, lines 37-47). Consequently, neither Hodosh et al, Johnson et al or Basso show an ice sheet having refrigerant cubes. Nor do Hodosh et al, Johnson et al or Basso show any cooling medium actually attached to an outer shell or wall along the inside of a container. These claim limitations are simply not disclosed in the references yet represent important features of the present invention as claimed in claim 1 and as claimed in various ways in the other independent claims (8, 15, 22, 30, 35, 40 and 44) in the application.

Further, if you try to combine the pouch 80 of Hodosh et al with the freezer pack insert 16 of Johnson et al or the insert housings (e.g. 22, 24 and 26) of Basso the combination wouldn't work. In column 2, lines 3-8 of Johnson et al the freezer pack insert 16 is described as being designed to have a “hollow cylindrical shape”. In column 3, lines 37-47 of Basso the insert housings are described as annular. These shapes would be unsuitable for use in place of the pouch 80 inside the case 20 of Hodosh et al which has a generally rectangular or prismatic shape.

The Examiner cited Basso as supplementing the previously stated rejection under section 103 by showing attached refrigerant sheets. However, the insert housings of Basso are rigid annular insert sections and do not comprise refrigerant sheets. Also, they are removable and are not attached to Basso's cooler or its main housing sections.


Applicant believes the rejection under 35 U.S.C. 103 is not apply since important claim elements are simply not disclosed in the references and since the references can not in any event be combined to form a workable resulting device.

Applicant has amended independent claims 1, 8, 15, 22, 30, 35, 40, and 44 and dependent claim 45 to help clarify their meaning. In general Applicant has amended claims 1, 8, 15, 22, 40 and 44 to add language to explain that the sheets of refrigerant cubes are comprised of transparent material or have a transparent layer so that the refrigerant cubes are visible when a cooler in accordance with the invention is open. Claims 30 and 35 were amended to help clarify and explain the wall construction as including exterior and interior layers having a transparent layer and visible refrigerant cubes. Dependent claim 45 (dependent on claim 44) was amended to clarify meaning and remove an unnecessarily narrow limitation.

### ***CONCLUSION***

In accordance with the Remarks included in this Amendment Applicant Submits that the Examiner's rejection under 35 U.S.C. §103 should be overcome. The Examiner is also referred to the proposed claims sent on September 24, 2004 and previously discussed with the Examiner that should be consistent with the amended claims submitted herewith. The Examiner is invited to telephone Applicant's attorney to discuss and resolve any remaining issues. In light of the forgoing, reconsideration of the application and of the claims is hereby requested, and Notice of Allowance is earnestly solicited.

Respectfully Submitted,



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John Horn

Attorney for Applicant

Reg. No. 28,803

John Horn

Patent Attorney

W68N336 Palmetto Ct.

Cedarburg, WI 53012

Telephone: 262-375-0376

Facsimile: 262-376-2927